REVIEW OF IMMIGRANT VISA PROCESSING

AUDIT REPORT 7-CI-002

FEBRUARY 1997

AUDIT REPORT 7-CI-002
REVIEW OF THE IMMIGRANT VISA PROCESSING
FEBRUARY 1997

TABLE OF CONTENTS

APPENDICES

ABBREVIATIONS

ACRS	Automated Cash Register System
A/IM	Deputy Assistant Secretary for Information Management, Bureau of Administration
CA	Bureau for Consular Affairs
CA/EX/CSD	Consular Systems Division, CA
CA/FPP	Fraud Prevention Programs, CA
CA/VO	Deputy Assistant Secretary for Visa Services, CA
CDC	Centers for Disease Control and Prevention, U.S. Department of Health
CLASS	Consular Lookout and Support System
DOL	Department of Labor
DV	Diversity Visa
FAM	Foreign Affairs Manual
FBI	Federal Bureau of Investigation
FSN	Foreign Service National
G-325A	INS biographic information form
GSA	General Services Administration
III	Interstate Identification Index
IMO	Information Management Officer
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
IV	Immigrant Visa
IVACS	Immigrant Visa Applicant Control System
IVIS	Immigrant Visa Information System
NCIC	National Crime Information Center
NFATC	National Foreign Affairs Training Center
NVC	National Visa Center
OIG	Office of Inspector General
RIMC	Regional Information Management Center
RSC	Regional Service Center

AUDIT REPORT 7-CI-002

IMMIGRANT VISA PROCESSING

December 1998

I. EXECUTIVE SUMMARY

Purpose

Each year since 1990, more than 130 U.S. consulates and embassies have issued at least 500,000 immigrant visas (IVs) to foreign nationals, and have collected more than $100 million in fees. Although the Department of State issues the IVs, the Immigration and Naturalization Service (INS), the Department of Labor (DOL), and the Centers for Disease Control and Prevention (CDC) are also involved in the process. Over the years, a number of concerns have been raised regarding the quality of immigrants admitted to the United States and the adequacy of our systems to effectively identify ineligible and undesirable applicants. We reviewed the Department's process to assess its adequacy in assuring that only qualified applicants receive IVs.

Background

The Immigration and Nationality Act (INA), section 104, gives the Secretary of State authority to administer and enforce immigration law, and the Secretary has delegated this responsibility to the Assistant Secretary of State for the Bureau of Consular Affairs. The Bureau of Consular Affairs (CA) is charged with developing processing procedures, issuing visas, managing the worldwide consular function, and ensuring the responsive and efficient provision of consular services. Volume 9 of the Foreign Affairs Manual (FAM) identifies regulations, interprets the law, and describes procedures for issuing or refusing IVs. The INA gives consular officers sole and direct authority to issue or refuse visas.

Results in Brief

While reviewing the process used for screening IV applicants to determine their eligibility to receive a visa, we found that

even though the Department's IV operations comply with the INA, there are weaknesses with the process used by the Department to determine the eligibility of the IV applicants, inadequate sharing of information, and a lack of coordination with the multiple agencies involved in evaluating the applicant's qualifications. **The lack of language skills to adjudicate cases in a consolidated environment, the inability to perform adequate name checks of foreign names, and the lack of a responsible agency to verify the existence of employers petitioning for immigrant workers could result in an IV being issued to an ineligible applicant.**

Principal Findings

Consolidating Functions

Consular officers lack the skills and tools they need to adjudicate cases at some posts where IV processing has been consolidated. Specifically, posts handling applicants from more than one country do not have the officers or the assistance of the Foreign Service Nationals (FSNs) with the proper mix of language skills and knowledge of the country's legal and cultural environment. The number of such posts is increasing because of the trend to consolidate the IV operations into a single post within a country or region.

Consular Systems

The complexities of processing the IV cases heightens the need for an automated system. We found that posts that were not automated were more vulnerable to internal control weaknesses, backlogs, lack of knowledge about the status and number of cases, and clerical errors. At the time of our review nearly 60 percent of the IV processing posts were not automated and CA has no plan to expand the use of the Immigrant Visa Applicant Control System (IVACS). However, as part of the Department's systems modernization

project, CA is exploring alternatives to replace IVACS.

Immigrant Visa Form

There is significant counterfeiting of the IV. If undetected these counterfeit IVs may mean that an ineligible person could enter the United States and obtain legal permanent resident status. While a machine readable IV is the best solution for security in the long run, CA has developed a new visa form with some additional security features to make counterfeiting more difficult in the interim.

Federal Bureau of Investigation Name Checks and Fingerprint Checks

We found that the National Crime Information Center (NCIC) and the Interstate Identification Index (III) are incompatible with the Department's needs. The systems are limited to a 30-character name field, with limitations on punctuation, and do not adequately transliterate some foreign names. Congress mandated that the Department perform the NCIC and III name checks for all applicants and mandated fingerprint checks at selected posts to determine if IV applicants have a criminal history in the United States; the value of these checks, however, is debatable. Results to date of the fingerprint checks show that they duplicate the results of the name checks, and that the processing time involved may significantly delay receipt of a visa by some of the IV applicants.

Employment Based Visas

Aliens may also obtain an employment based IV with an approved labor certification and a petition. While the DOL, INS, and the Department are all involved in this process, none of them are required by law to verify the existence of the employers filing for immigrant workers. CA's Fraud Prevention Programs (CA/FPP) office has already started work in this area to ensure that only valid employers are approved for this process.

EXECUTIVE SUMMARY

Duplication of Efforts Resources are being wasted by the Department and the INS because a duplication of effort is taking place at the Regional Service Centers, the National Visa Center, the overseas posts and the ports of entry. The INS and the Department are entering the same 20 data elements into their respective systems. The Department, in coordination with the INS, is working to eliminate this duplication of effort through the initiation of a data sharing program that will allow the two agencies to share information. This program would allow for a reduction in the amount of work performed by the staff of the NVC and **CA estimates that it would result in annual savings of $1 million**.

Recommendations The responsibility to strengthen and improve the efficiency of the IV process does not lie solely in the purview of CA; it is dependent on action taken by and cooperation with other bureaus and agencies. Therefore, we are recommending that CA**, FSI, PER, and IM**:

- provide officers adjudicating IV's in a consolidated environment the training and tools needed to ensure the quality of the process,

- establish milestones for automating all IV processing posts,

- continue efforts to streamline the IV process by eliminating the duplication of effort and sharing data with INS and to develop a machine readable IV, and

We are referring this report to the Department of Justice's INS and the Federal Bureau of Investigation (FBI) for their edification and so they can take appropriate steps to address

these issues.

Department and Other Agency Comments

Although most of the report's recommendations were made to CA, copies of the draft were also distributed for comment to other offices and bureaus of the Department, as well as INS, and the FBI. PER and FSI did not provide comments on the draft report. Generally, all agreed with the report's findings and recommendations. Among its comments, CA disagreed with the recommendation to perform a study of the language skills and cultural knowledge required of the officers and FSNs at the consolidated posts to process IVs. CA disagrees because it does not foresee consolidating IV operations at any posts in the future and because of a lack of resources to perform the study. CA also pointed out that the decrease in junior officer intake may prevent the Bureau of Personnel from assigning officers with the proper mix of skills to the consolidated IV posts. The recommendation was modified based on CA's comments. CA also disagreed with the recommendation, which stated that FSNs should be able to reject IV applicants who lack the required documents. CA stated that this recommendation may violate the INA, generate additional correspondence, and increase the amount of supervision officers would have to provide to the FSNs. We agreed with CA and, based on its comments, the recommendation was deleted.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

We assessed the adequacy of the Department of State's systems for assuring that only qualified applicants receive IVs.

The Departments of State and Justice and, in some cases, the DOL are involved in processing IVs. Given the fact that the authority of this Inspector General is restricted to the Department of State, our scope was limited accordingly. However, because the actions of these other agencies effect the Department's process, this report discusses their roles and makes some recommendations that may affect their processes. Approximately 130 posts process IVs overseas. Because our resources did not permit a detailed review of all IV issuing posts, we conducted the audit based on two assumptions:

(1) the procedures for processing IVs vary by post according to management, resources available, and local circumstances, and

(2) a sample of posts with diverse characteristics, such as management, staffing, workload, and support systems, provides a reasonable basis for making determinations with regard to worldwide systemic IV issue.

Our fieldwork began in October 1994 and ended in May 1996. **Fieldwork was extended to gather statistics on the results of the FBI fingerprint pilot project.** Within the Department of State, we interviewed officials in CA and the Bureau of Administration in Washington, D.C., the National Visa Center (NVC) in Portsmouth, New Hampshire, and overseas posts in Dublin, Warsaw, Damascus, Accra, Hong Kong, Bangkok, Karachi, Ciudad Juarez, and Bogota. We selected the nine posts based on: the size of their IV workload, the type of system they used for processing IVs, the type of lookout system they used, and the size of the available staff for processing IVs.

Outside of the Department, we conducted interviews with officials in the INS, the Regional Service Center (RSC) in St. Albans, Vermont, the John F. Kennedy International Airport in New York, the FBI, the DOL, the CDC, and public assistance agencies for Virginia, New York, and Texas.

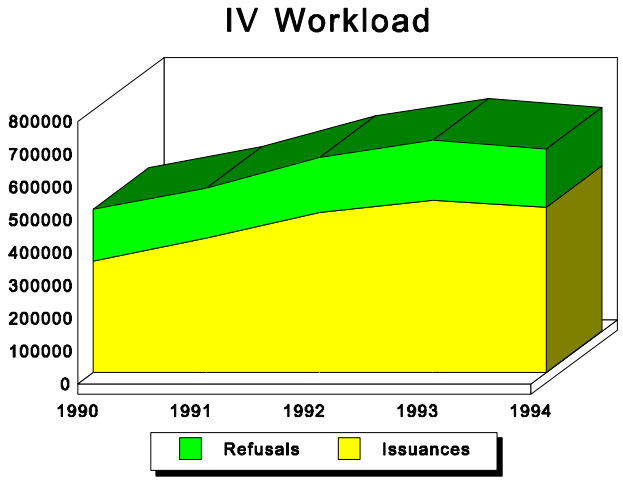
The audit was conducted in accordance with generally accepted government auditing standards and included appropriate tests to evaluate the adequacy of internal controls and procedures that the auditors considered necessary under the circumstances.

Work on the assignment was performed by the staff of the Office of Inspector General's (OIG) Office of Audits, Consular and International Programs Division. Major contributors to this report were Maurice Blais, division director; Norma Brown, and Jesse

Roth audit managers; Shyrl Coker, James Doty, and Robin Schulman, auditors; and Luciano Mangiafico, consultant.

III. BACKGROUND

The INA, as amended, identifies two ways in which foreigners may become legal residents of the United States. One way is to obtain an IV at a U.S. consulate abroad. The other way is to apply for adjustment of status with the INS while in the United States. Basically, there are two ways that an applicant can qualify for an IV: through the sponsorship of a U.S. citizen or legal permanent resident family member, or through the sponsorship of a U.S. employer that has filed a petition with the INS. In addition, the Diversity Visa (DV) Lottery Program, started in FY 1995, provides additional visas annually for persons from countries with low immigration rates. The DV lottery program gives individuals an equal chance to be randomly selected to apply for IVs, whether or not they have family members or a prospective employer in the United States. Because of the complexity of the process for issuing DVs, the lottery program will be covered in a separate memorandum report. Upon receipt of an IV abroad an alien may be admitted by an INS inspector at a U.S. port of entry as a "legal permanent resident." Evidence of this status is an alien registration card, referred to as a green card. Generally, an immigrant who has been in the United States legally for at least 5 years may apply to become a naturalized U.S. citizen.



In FY 1994, approximately 500,000 applicants were issued IVs and 300,000 applicants were at least initially refused IVs. Given the $170 fee for each application and the $30 fee for each issuance, posts generated more than $100 million in 1994 for the U.S. Treasury.

CA is responsible for developing policies for issuing IVs, managing the worldwide consular function, and ensuring that responsive and efficient consular services are provided abroad. Section 104(a) of the INA gives consular officers specific and exclusive statutory authority for issuing and denying visas.

THE IMMIGRANT VISA PROCESS

The process for applying, qualifying, and receiving an IV is complex and can take years. It usually begins when an American citizen, a legal permanent resident, or a prospective employer, petitions INS for his or her relative or employee to immigrate to the United States. The INS determines whether the claimed relationship is valid and also whether it entitles the alien to immigrant status, based on documents that the petitioner submits. Generally, parents, spouses, children, and siblings of American citizens and legal permanent residents are entitled to immigrant status.

After the INS approves the petition, it is forwarded to the NVC, where it is either sent to post for immediate processing or stored until a visa number becomes available. Immediate relatives (spouse, children, and parents) of U.S. citizens are admitted without numerical limits and, therefore, most are processed before other applicants. Starting in Fiscal Year 1995, with the advent of the DV program, the total annual numerical limit is 675,000 for (1) family-based immigrants, (2) employment-based immigrants, and (3) DV lottery program immigrants combined. The approximate number of each category of these immigrants to be admitted each year is as follows:

Family-Based	480,000
Employment-Based	140,000
Diversity Lottery	55,000
Total	675,000

Apart from the immediate relatives of U.S. citizens, an applicant's place in line for processing is based on the date the INS receives the petition, referred to as the priority date. The petition moves forward for processing within the Department as visa numbers become available, based on the priority date, the visa category, and country of birth of the applicant. The NVC enters data from the INS petition into its Immigrant Visa Information System (IVIS), and creates a file consisting of the petition and its supporting documents.

When an applicant's priority date is about to be reached and the petition is nearly current, the file and the IVIS data are sent to post. It is also at that time that the applicant (also known as the beneficiary) is told the steps she or he should take to be considered for an IV. Essentially, each applicant must assemble his or her birth certificate, proof of family relationship, evidence of support, and police certificates and be prepared to bring these documents with them to the visa interview. Once the post is notified, by the applicants, that the documents have been assembled, and a visa number is obtained from CA's Deputy Assistant Secretary for Visa Services (CA/VO), an appointment is scheduled for the applicant with a consular officer. In the appointment letter, the applicant is asked to notify the consulate at once if the appointment cannot be kept. The letter also explains that the applicant should undergo a medical examination before the appointment.

On the day of the appointment, consular officers rely on the personal interview and a review of documents to determine the applicant's eligibility. Usually, the personal interview with the consular officer is one of two face-to-face meetings applicable Federal agencies have with the IV applicants. The second meeting is with the INS inspectors at U.S. ports of entry. Normally any person for which a petition has been approved by the INS is eligible to receive an IV unless she or he is found ineligible under one of the grounds of ineligibility located in section 212 of the INA. (See the following chart.)

Consular officers typically rely on the following tools to determine ineligibilities.

Grounds of Ineligibility	Principal tools used to determine ineligibility
212(a)(1) Health related grounds	Personal interview, medical examination
212(a)(2) Criminal and related grounds	Personal interview, police certificates, and name checks
212(a)(3) Security and related grounds	Personal interview, police certificates, and name checks
212(a)(4) Public charge	Personal interview, affidavit of support
212(a)(5) Labor certification and qualifications	Personal interview, DOL certification
212(a)(6) Illegal entrants and immigration violators including draft evaders, fraud, and misrepresentation	Personal interview, Information from INS, and antifraud units
212(a)(7) Document requirements	Related to INS functions
212(a)(8) Ineligible for citizenship	Personal interview
212(a)(9) Miscellaneous includes polygamists, child abductors, and others	Personal interview
221(g) Failure to comply with the INA, including missing required documents	Personal interview

In FY 1994, approximately 188,000 IV applicants were found ineligible--more than 80 percent of which (approximately 155,000) were denied under section 221(g) of the INA because they lacked one or more of the required documents. The balance of the ineligible applicants did not receive a visa at their first interview for the following reasons: 25,000 were

denied under section 212(a)(4), Public Charge; 4,000 were denied under section 212(a)(6)(C), Misrepresentation; 2,200 were denied under section 212(a)(5)(A), Labor Certification; 1,200 were denied under section (a) (l)(A), Drug Abuser or Addict; and 700 were denied under section 212(a) (2)(A), Crime of Moral Turpitude.

WAIVERS OF INELIGIBILITY

While consular officers make findings of ineligibility for IV applicants, provisions in the law allow persons to be admitted into the United States despite the consular officer's finding of ineligibility. For certain grounds of ineligibility such as medical grounds, some criminal grounds, misrepresentation, and alien smuggling, waivers of ineligibility may be granted by the INS. Approval of the waivers is entirely discretionary on the part of the INS. Most of the grounds of ineligibility are waived when excluding an applicant from the United States would pose a hardship for a U.S. citizen or legal permanent resident. If the alien is eligible to apply, the FAM states that the consular officer should inform the alien, assist in preparing the waiver request, and forward the request to the INS for review and approval.

While the INS has information on the total number of waivers issued for both nonimmigrant visas and IVs, the INS does not have formal data on the requests for waivers that are submitted specifically for IV applicants.

AFFIDAVITS OF SUPPORT

Consular officers must also decide whether aliens are likely to become public charges at any time if admitted to the United States. Applicants must, therefore, convince consular officers that either they can support themselves or that someone else is willing to do so. While supplementary documents such as income tax returns, bank statements, or job letters are often provided, most consular officers prefer these documents to be accompanied by an affidavit of support. *Department of Health and Human Services Poverty Income Guidelines* establish income parameters for consular officers to use in their decision making. The FAM explains, however, "that these guidelines are not conclusive in themselves and should not be arbitrarily applied as a substitute for the consular officer's judgement." The official affidavit of support form states that when signed it binds the sponsors for a period of 3 years. U.S. state-level court cases have held, however, that sponsors are not legally liable if the alien becomes a public charge.

Current legislative proposals before the Congress address the public charge issue. One proposal states that any alien who is lawfully present in the United States (with some exceptions) shall not be eligible for Supplemental Security Income, Temporary Assistance for Needy Families, Social Services Block Grant, Medicaid, and Food Stamps. The proposal further states that neither the Attorney General nor any consular officer may accept an Affidavit of Support to establish that an alien is not excludable as a public charge, unless the

affidavit is executed as a contract that is legally enforceable against the sponsor by the Federal Government and by any state. The provision would hold until such time as the alien becomes a U.S. citizen through naturalization.

EFFICIENCY INITIATIVES OF CONSULAR AFFAIRS

CA has taken a number of steps to improve the efficiency of systems for processing IVs. In the 1980s, CA pioneered centralization of IV functions at posts abroad in a number of countries such as Mexico, Brazil, Germany, and Italy. The biggest centralization was in Mexico where processing was consolidated from four posts (Mexico City, Monterrey, Tijuana, and Ciudad Juarez) to one post (Ciudad Juarez). At about the same time as the Mexico consolidation, CA initiated a program whereby Civil Service examiners could adjudicate IVs at border posts. The examiners reside in the United States, and therefore no housing and allowance costs are incurred. This initiative's success has permitted the bulk of IVs to be processed by well qualified, experienced visa examiners at a cost well below that of assigning Foreign Service officers abroad to do similar work.

The next significant step taken by CA was to develop the centralized processing center at the NVC. The idea was originally adopted to permit the Department to absorb the greatly increased workload created by amendments to the INA in 1990 without accompanying increases in overseas staffing. The centralization resulted in (1) a level of quality control provided at the NVC that exceeds pre-existing procedures for checking the accuracy of data entered at post; (2) an ability to perform the electronic NCIC check at a U.S. location before that data and other documents are sent to posts for processing; and (3) a place to store and manage all the IV files, which relieves posts of the huge burden of filing and pulling cases as they change from non-current to current status.

Another initiative originating with CA was the amendment to section 245(c) of the INA, which permitted aliens currently in the United States to adjust status with the INS. CA stated that this change will produce significant savings for the U.S. Government by reducing IV workloads abroad (where costs are higher) and by shifting the workload to INS, which funds the additional requirements through a user fee charged to applicants. Several other initiatives that could have an effect on IV processing are underway; for example, further review of the process could show that it is not necessary to send correspondence directly to IV applicants from the NVC, which would result in significant savings in mail charges.

Although CA has many accomplishments and plans in this area, we believe that more steps need to be taken to assure that only qualified applicants receive an IV and that IV fees are properly collected. The following discussions present our findings and recommendations as well as additional CA initiatives. Many of the findings relate to areas of the IV process for which CA does not have sole control. Therefore, in order to address several of the recommendations, CA will need the assistance and support of other bureaus within the Department. In addition, some of the recommendations in the report will require CA to coordinate with other Federal agencies involved in the IV process.

IV. FINDINGS

The following sections of the report highlight the areas where we found significant weaknesses in processing and determining the eligibility of IV applicants that could result in the Department issuing a visa to a person who is not qualified. The use of the term "systems" throughout this report does not refer strictly to computer systems, but rather it refers to the wide array of tools and administrative processes that are used during the processing of the IVs and during the determination of eligibility of the applicants. The IV process includes interviewing, name checks, medical examinations, and the clerical duties performed to move the cases along considering their priority dates.

Also included among the findings are areas where efficiencies could be gained in the processing of the IVs to provide for a better use of the consular resources. Such as interviewing unprepared applicants, collecting the IV fees, and eliminating duplicate efforts between the Department and the INS.

A. CONSOLIDATING FUNCTIONS

At some posts where IV processing has been consolidated into a single country or region, consular officers lack the language skills, cultural knowledge, and antifraud resources they need to assure that only qualified applicants receive IVs. This is because officers and the FSNs with the proper mix of knowledge and skills have not been assigned, and antifraud units at these posts have not been adequately equipped to support officers in these environments. We found officers adjudicating cases for applicants from several countries, although neither they nor the FSNs who provide assistance could collectively speak the languages or read the applicant's documents. Another post that processed more than 100,000 applications a year had only $300 in its antifraud travel budget, which was not adequate for conducting its antifraud investigations. This post was also processing applicants from countries where fraud and drug trafficking are common. IV consolidations, though efficient in many ways, may therefore be inimical to U.S. border security.

Consolidations of the IV workload have taken place in countries such as China, Mexico, Canada, Pakistan, Moscow, and Brazil, in which one post is responsible for processing the country's entire IV workload. In other instances one country in a region has taken on the responsibility for a neighboring country's IV processing. For instance the IV work of 21 countries on the continent of Africa has been consolidated to five countries, and Warsaw and Moscow are handling the IV workload for a total of 15 countries between them. In addition the OIG has recommended consolidating the IV work of five Central American countries.[1]

---

[1]Office of Inspections Report: *Inspection of Embassy San Salvador* (ISP/I-95-27, February 1995).

The Bureau of Personnel, in conjunction with the geographic bureaus in the Department, assigns officers to posts after consulting with CA. Where applicable, consular officers are provided with language training for the language spoken at the post of their assignment. In addition to the language training, posts are expected to supplement the consular training by providing officers with effective training on the host country's cultural and legal environment. Together, the language training and the post-specific training provides the officers with the necessary knowledge to handle the adjudication of visa cases. However, at posts where the officers are expected to adjudicate the IV cases of applicants from other countries who speak a different language, the training may not be adequate. The adjudication of cases in the situation where the officer does not speak the applicant's native language hampers the interviewing process and requires a reliance on the use of translations and interpretations by the FSNs.

Posts are responsible for hiring FSNs for consular sections. An effective FSN can bring a high level of knowledge and expertise on the local culture and legal environment to the consular sections. In the situations that we saw, the FSNs were natives to the country where the IV was processed and, therefore, they did not always speak the language of the applicants from the other countries. In addition, under this scenario, the FSNs may not be as effective in confirming the authenticity of the applicant's documents, or providing translations to the officers during the interviews. The officers did the best they could with what they knew of the language, running the risk of making errors due to misunderstanding the applicants in the interviews.

The Importance of the Personal Interview

Undoubtedly, the personal interview by a consular officer is the preeminent factor in the decision to issue or refuse a visa, particularly when some of the required documents and systems--such as a police certificates or affidavits of support--are either unavailable or unreliable because of high fraud in the country. In these instances, consular officers should possess strong interviewing skills, strong language skills, and a detailed understanding of the cultural, social, and legal milieu of the host country. These skills would allow consular officers to assess the truthfulness of the applicant's written and oral statements, confirm the relationship between the applicant and the petitioner, place the appropriate amount of credibility on the documents presented, and determine whether or not the person is eligible for the visa. The importance of the personal interview is mentioned in chapter 5 of the *Consular Anti-Fraud Handbook*, which states that interviewing can be the best and most reliable source of information.

Antifraud Initiatives

The post previously mentioned that was provided with a $300 travel budget for antifraud investigations was largely relying on telephone calls to contacts and planned no field investigations beyond the area where it was located because of the limited budget. Furthermore, although the post had IV jurisdiction for the entire country, it had not made arrangements with other posts in the country to conduct the necessary antifraud investigations. Only one other post in the country had its own antifraud unit and, when asked to provide assistance, the post said essentially that it lacked the resources necessary to conduct antifraud investigations for the post responsible for processing consolidated IVs.

We realize that the lack of resources are driving the efforts to consolidate the posts; however, the risks need to be evaluated. CA should ensure that IV processing consolidation is not increasing the vulnerabilities at posts where visas are being processed for applicants from countries with high levels of fraud or drug trafficking and smuggling or high threats of terrorism. Without the requisite tools and skills, officers have no way of assuring that only qualified applicants are receiving IVs and are, therefore, likely to issue visas to ineligible and undesirable individuals.

> Recommendation 1: We recommend that Consular Affairs identify the skills, tools, and antifraud resources required by the immigration visa officers and the Foreign Service Nationals at posts where the immigrant visa processing is being considered for consolidation and provide the results to the Bureau of Personnel.

In its response to Recommendation 1, CA stated that it is unlikely that any further consolidations will take place because the economies of scale planned for have been achieved. CA further stated that the cross border consolidations are closely monitored by CA/VO, and that it has limited resources to conduct the study called for in the recommendation. Because the we understand there is a shortage of resources the recommendation has been altered to require a study only in future consolidations of the IV processing.

> Recommendation 2: We recommend that the Bureau of Personnel take the appropriate steps within the Department to obtain the requisite resources, assigning the proper mix of officers and Foreign Service Nationals who collectively have the right language skills to adjudicate applications.

CA pointed out in its response to Recommendation 2 that the reduced intake of junior officers is likely to hamper the timely assignment of qualified officers to all the consular posts. PER indicated that it did not have comments to provide on the draft report.

Consolidation of the Panel Physicians

Panel physician operations are being consolidated at posts to improve consular control and oversight. Several posts we visited had consolidated the applicant's medical examination

process into one or two facilities in the same city where IVs are being issued. The workload of these posts ranged from high volumes, as much as 100,000 applicants, to very low volumes, as little as 3,000 applicants. At all of these posts the officers identified the panel physicians as a strength of the IV process.

Consular officers relied on the physicians appointed to perform medical examinations to determine if an applicant is eligible for an IV under section 212(a)(1) of the INA. These physicians, who are normally called panel physicians, conduct examinations according to a publication titled *Technical Instructions for Medical Examinations of Aliens*, provided by the CDC. A written agreement between the post and each physician establishes the parameters by which the physicians must perform the examinations. The INA states that, "any alien who is determined...to have a communicable disease..., to have a physical or mental disorder ..., [or] who is determined ... to be a drug abuser or addict, is excludable." The findings of a panel physician are reported to the consular officer on an appropriate form OF-157. The finding of a communicable disease or a drug addiction are class A conditions that render the applicant ineligible to receive a visa. A class B finding indicates that the person's health condition deviates from the norm and that the applicant may require extensive treatment or be unable to undertake certain activities in the United States, raising the likelihood of becoming a public charge.

In 1994, CDC guidance stated that physicians must perform medical exams in the country where the visas are being issued. The CDC also suggested that posts perform such examinations in one or two facilities in the same city where visas are processed to increase consular officer oversight and communication with the physicians and the medical laboratories, thus reducing the opportunity for fraud. Because of the distance and cost to IV applicants, however, the FAM says, and we observed, that some posts have felt obliged to select a large number of panel physicians in other locations and, contrary to the CDC's direction, sometimes even outside the country where the IVs are being issued. This was occurring because some applicants incur greater cost in time and expense to travel to post for IV processing.

At one post we visited, a panel physician was charging some applicants a higher fee than what was proscribed in the written agreement. The doctor claimed that he only charged some adopting parents higher fees because they asked more questions than the normal applicants. In this case the panel physician was located in the same city where the visas were issued, and the problem was easily solved. At another post, the Consul General made an unannounced visit to a panel physician in an outlying area only to discover that the laboratory did not have the number of HIV (Human Immunodeficiency Virus) tests necessary for the volume of applicants it had been examining. Relations with this lab were terminated, and it was decided that because of the time and expense involved in overseeing remote locations, the panel physicians should be consolidated in the capital city near the embassy.

In today's environment of limited and dwindling resources, particularly when there are scarce consular resources for visits to panel physicians, it would be advantageous to require all posts, particularly those with high fraud, to require that medical examinations be performed in the city where the visa is issued. Consular officers rely on medical examinations to determine the eligibility of the applicants; therefore, it is important that the officers actively monitor physician and medical lab operations.

> Recommendation 3: We recommend that Consular Affairs direct posts to consolidate medical examinations in the city of visa issuance or city with a consular presence and limit the number of panel physicians and laboratories so that a high percentage, if not all, of the examinations are performed at a limited number of facilities.

In its response to this recommendation, CA stated that requiring medical examinations to take place only in the city of the visa issuance would create a hardship for applicants who have to travel a great distance from their home and wait for the results of the examination. In some countries it can take up to 10 days. However, we believe that the proper supervision of the panel physicians by consular officers outweighs the potential hardship placed on the applicants who have to travel to the city of the visa issuance. We did expand the recommendation to include verbage indicating that medical examinations can be closely supervised in cities where there is a consular presence even if IVs are not issued in that location.

B. CONSULAR SYSTEMS

We found that the complexities of the IV process, including the length of time involved, the updating of information, the movement of the cases by priority date for an available visa number, and the reconciliation of visa numbers, lend themselves to the use of an automated process. However, fewer than half (42 percent) of the posts that process IVs have an automated system to assist them.

For those posts that have IVACS, the IV process is highly automated . IVACS, the primary IV system, was developed around 1980 and first installed at embassy London shortly thereafter. The system automates the case control file, interfaces with the Consular Lookout Automated Support System (CLASS), sets up applicant appointments, and produces parts of visa packets. In addition, it generates statistics and other management reports, produces letters for terminating inactive cases, and prints IVs. IVACS has been modified periodically, including a major revision as a result of amendments to the INA in 1990.

Lack of Automation

Not all posts have IVACS. In fact, more than half of all IV posts are not automated and still use control cards to manually track IV cases. **As of December 6, 1996,** the non-

automated posts processed about 20 percent of the worldwide IV workload, whereas posts with IVACS processed 80 percent of that workload. CA has no plans to expand IVACS use at posts around the world because IVACS is a Wang-based system, and Wang will not be used as part of the systems modernization project. CA is currently in the design phase of modernizing IVACS into a PC Lan system. It plans to model the new system after the PC-based system currently being used for processing DV lottery cases.

The lack of IVACS at a post increases internal control vulnerabilities and makes IV processing more labor intensive and prone to errors. Normally, posts without IVACS must manually enter data onto control cards and cannot quickly sort data, generate statistics, or produce management reports to insure the accuracy of data entry. At one post we found a processing backlog of over 6 months. The backlog was due in large part to the fact that the post does not have an automated tracking system, which would have assisted the staff in keeping track of the status of the IV cases and would have generated statistics on their IV workload. A control card system was in place to track the cases, but the FSNs stopped using the control card system without the officer's knowledge. At the time of our visit the post had no information on the case priority dates, no data on how many cases were current or noncurrent, and no information on the number of cases that were inactive. As a result, the only cases being processed were those of individuals who aggressively pursued their cases at the embassy; new cases that arrived weekly from the NVC were placed under desks until someone called about them.

> Recommendation 4: We recommend that Consular Affairs, in coordination with Office of Information Management, continue to move forward with the modernization of Immigrant Visa Applicant Control System and (1) establish milestones for placing it at all immigrant visa processing (IV) posts to insure efficiency of the IV process and (2) take steps to insure that the milestones are achieved, **taking into consideration available** funding.

CA stated that the modernized IV system development team is currently preparing for pilot testing of the software during October 1996 in Vancouver. The modernized IV program will be prepared for worldwide release in the summer of 1997 after months of testing. Coordination with IM will be necessary because the release of the program to the posts is dependent on IM's ability to upgrade posts to the ALMA (A Logical Migration Approach) platform. The modernized IVACS may be used as a stand alone system at posts that do not have ALMA; however, this will preclude the use of many of the modernized features.

Systems Training and Information

Although Information Management Officers (IMOs) spend as much as 80 percent of their time maintaining and supporting automated systems in consular sections, our post interviews disclosed that none of the IMOs or consular officers received adequate training on

the design, maintenance, or use of the automated IV systems. Without adequate information, IMOs and consular officers can do no more than muddle through problems. The information management training courses in place at the National Foreign Affairs Training Center (NFATC) and at the Warrenton Training Center do not include information on the consular systems. In addition, training is received in a haphazard fashion by the officers because it is not mandatory for the officers to take the courses. We were told that the Bureau of Consular Affair's Consular Systems Division (CA/EX/CSD) has provided detailed briefings on the consular systems to IMOs going overseas; however, this has not been consistent.

The Department plans to spend more than $65 million by 1997 to upgrade consular systems. Several groups and individuals in the Department share the responsibility for managing information systems. The Office of Information Management (A/IM) coordinates information management activities among the various entities of the Department. At posts, IMOs provide the day-to-day support for communications and automated systems. Regional Information Management Centers (RIMCs) guide and assist IMOs around the world. On occasion, IMOs contact A/IM in Washington for assistance. CA/EX/CSD has the authority to design, develop, and maintain consular automated systems.

In 1995, CA started a 4-day course to provide training to consular officers who will use automated systems at posts. The course, offered by NFATC here in Washington, D.C., encompasses instructions on the IV processing systems as well as the nonimmigrant visa processing and American citizen services systems. A 24-hour CA help-desk supports posts by responding to questions regarding the systems. For IMOs, CA gave a 4-day overview of consular systems as part of the 9-week IMO training course that was held in April 1994 and again in 1995. We were told that CA/EX/CSD is developing systems training that will be provided through a contractor to consular officers at posts on a 2 to 3-year cycle. We support development of the course, particularly the plans to provide officers overseas with training. Similar training should be developed and provided for IMOs overseas.

> Recommendation 5: We recommend that Consular Affairs, in conjunction with the Office of Information Management, the National Foreign Affairs Training Center, and the Bureau of Personnel, determine the total training and information needs of Information Management Officers in maintaining immigrant visa automated systems and establish applicable training for the Information Management Officers overseas.

CA pointed out in its response to this recommendation that the contractor for installations of the consular automated systems will also provide training modules for consular officers and IMOs at post. Training will be offered for all the post consular automated systems including the IV system. CA stated that it will coordinate with PER, A/IM, and the geographic bureaus to ensure that assigned officers receive appropriate training. In the past A/IM and CA personnel have not always been able to take applicable training because of time

constraints in the assignments process. A/IM agreed with Recommendations 4 and 5 and stated that it is working with CA on the modernized IV system.

C. THE IMMIGRANT VISA FORM

Variations in the current IV forms and processing make it difficult for the INS Inspectors to identify invalid visas. In addition, the current IV form can be easily counterfeited because it has limited security features, increasing the risk that a person with criminal or national security ineligibilities may be admitted to the United States and ultimately be issued a green card.

Uniformity/Preparation

At the time of our field visit, posts were printing IVs on two different types of forms. A white, single-part form was first used in 1991. A light green, two-part form was put into use in 1993. The simultaneous use of the two forms stems from the Department's instructions to the General Services Administration (GSA) to deplete its supply of 1991 forms before shipping the 1993 forms to the Department. Once GSA depleted its supply of the 1991 forms it started shipping the 1993 forms to the Department for use by the overseas posts. This action resulted in the use of two different types of visa forms, as some posts began receiving the 1993 form, and others were still using the 1991 forms. The use of these two forms will cease to be a problem when the posts have depleted their supply of the 1991 forms.

The 9 FAM (section 42.73) states how IVs should be prepared, including where applicants should sign their photographs and where stamps and seals should be placed on the document. The FAM states that photographs should be signed along the right margin, and attached to the form with glue and sealed by the legend machine. A dry seal impression should cover the photograph and the officer's signature.

At the posts we visited, some applicants were signing the top of the photographs, others were signing the photographs wherever there was space, and others were not signing the photographs at all. The type on the face of the IVs also varied because some posts were using a pica or elite typewriter, while others were using the dot matrix type of printer. A few posts stapled the visa package in the upper left hand corner, while others used metal eyelets in that corner.

The INS Inspectors we interviewed said that the differences in the appearance of the issued IV makes it difficult for INS inspectors at U.S. ports of entry to effectively distinguish legitimate IV's from counterfeit ones. The seriousness of IV counterfeiting caused the INS to issue a worldwide alert to posts, law enforcement agencies, and immigration offices in December 1994. The alert stated that, overall, the documents appear to be excellent

counterfeits and the maceration stamps placed on the photographs replicated admirably a genuine IV. A standard product would go a long way in reducing fraud in this area. INS officials told us that several IV counterfeits had gotten past INS inspectors at U.S. ports of entry. Many of them were not detected until the files reached the INS Card Facility in Texas, where green cards for legal permanent residents are processed.

> Recommendation 6: We recommend that Consular Affairs apprise posts of the requirements for preparing immigrant visas, stressing the importance of a standard immigrant visa document, to facilitate the Immigration and Naturalization Service identification of counterfeit and fraudulent immigrant visas at U.S. ports of entry.

CA stated in its response to this recommendation that the new IV form was implemented in May 1996, and that extensive discussions were held with INS at that time so that INS Inspectors would be familiar with the implementation plans and the security features. This response, however, does not fully address the intent of the recommendation, which is the consistent preparation of the IV forms at posts. While the use of the new form should increase the chances that a counterfeit IV is detected, consistent preparation can facilitate counterfeit detection.

New Form Under Development

To the credit of CA, a new IV form is being developed. The new IV, which has been under development since 1991, was put into use during May 1996. CA experienced delays during the development of the new form because the form did not meet the specifications, the information did not print in the correct boxes, the wrong paper was used, and additional security features were suggested by CA/FPP. The form has as many security features as can be afforded at this time, making it more secure and less vulnerable to fraud and counterfeiting than the current IV form.

Immigrants currently hand carry the IV in a large envelope along with other documents to U.S. ports of entry. However, CA's long-range goal is to reduce the number of documents immigrants hand carry to ports of entry by transferring the data electronically to the ports of entry and by providing the beneficiary with a machine readable IV. The INS at ports of entry will scan and validate the authenticity of that document based on data electronically transmitted by posts. No date has been identified for creating the machine readable IV.

> Recommendation 7: We recommend that if economically feasible Consular Affairs take steps to (1) develop a machine readable immigrant visa and (2) fund that project with fees collected through the Machine Readable Visa Program.

In its response CA stated that, as part of the systems modernization project, there are efforts underway to create a machine readable IV, using the modernized computer system. After the completion of a cost study to determine the actual cost of issuing an IV, CA plans to pursue a full cost recovery program to fund the costs of the IV issuance.

D. FEDERAL BUREAU OF INVESTIGATION NAME CHECKS AND FINGERPRINT CHECKS

Name checks are conducted through both NCIC and III Systems. The NCIC name checks search the Wanted Person, Deported Felon, Foreign Fugitive, Missing Person, United States Secret Service Protective, Violent Felon, and Violent Gang and Terrorist Organization Files. The III, which is accessed via the NCIC telecommunications lines, is an index to state and Federal criminal history records and provides for the interstate exchange of this information.

While we found the III to be of dubious reliability in identifying the names of persons with criminal records, CA officials and consular officers say that the name checks have been more successful in identifying the criminal records of the visa applicants than fingerprint checks. CA says that the NCIC have identified visa applicants who appeared to be subjects of outstanding U.S. arrest warrants, whereas the hits from the fingerprint checks have merely duplicated the hits received from the name checks.

Two separate acts of Congress mandate that the Department perform name checks and fingerprint checks of the IV applicants through the various FBI databases to determine if any of the applicants have had a criminal history in the United States. The mandate for the name checking procedures was included in the Foreign Affairs Authorization Act for fiscal years 1994 and 1995, or Public Law 103-236. The fingerprint checks were mandated in the 1995 appropriations (P.L. 103-317) of the Departments of Commerce, Justice, and State, and the Judiciary and related agencies. The Department was further mandated to provide the Congress with a report on the effectiveness of the name checks no later than December 31, 1996.

The NVC checks applicant names in NCIC and III through both an automated IVIS hookup and an FBI employee who manually executes inquiries of the NCIC system. IVIS automatically provides applicant names to NCIC and III, through an electronic connection. In addition, an FBI employee manually executes the inquiries in NCIC and III of the names submitted by overseas posts. The NCIC contains over 410,000 wanted person records, and the III contains over 23 million individuals with criminal history records. Because the Congress did not grant the NVC full access to criminal history records, NVC is limited to inquiries of the index and can not obtain the criminal history records through the III. The index includes the name, birth date, gender, race, and height of the person identified. An NVC employee compares the information on the index to that originally entered. When a

potential match occurs, that data accompanies the applicant's IV file to posts where consular officers will further verify the data.

The NCIC and III Systems are limited to 30 characters (including spaces) and does not accept certain punctuation marks such as apostrophes as part of names. Some applicants from India, for example, have more than 30 characters in their names. Because of these problems the NVC experienced a high rejection rate in March 1995 when it first submitted names to the NCIC and III Systems. The Systems are largely oriented toward the U.S. culture and name formats; therefore, the system handles the first name, middle name, and last name format, and does not effectively process multi-part last names such as Abdel Rahman. The NVC has worked with the FBI to create a program that rearranges names so that various combinations are sent for checks. The NCIC Operating and Code Manuals contain guidelines to follow when making inquiries in either system upon names which are longer than 30 characters and names that do not conform with the usual U. S. formats. If standard guidelines are followed, all possible matches will be identified since the records entered into the Systems must also conform to these specifications. At the time of our visit the III system rejected inquiries of persons 80 years and older, but in July 1995, III was changed to accept individuals up to 99 years of age.

Another vulnerability is the lack of algorithms to transliterate foreign names. The NCIC system uses soundex, and the III uses a modified Soundex algorithm, both of which look for name similarities. Because the Systems provide a broader, more fuzzy match than CLASS, sometimes the results only vaguely resemble name entries. Also, the III system search for an exact match on the month and day of birth, and plus or minus three on the year of birth. A review of indexes at the NVC on May 2, 1995, revealed that a high percentage of the responses were matches of the birth dates rather than matches of the names.

To determine the reliability of the name checks at the NVC we asked an FBI employee to inquire upon the names of two individuals who were known to have arrest and conviction records, one of whom is currently in a Federal prison. We used the individuals' names and incorrect birth dates initially and no response was given. For the second test, even though the correct names and birth dates were given, no response was provided for either name. A response was finally provided to one name when the race of that individual was entered into the system was included in the inquiry. We were told this occurred because the individual was in the III system which requires the name, date of birth, sex, and race when making inquiries.

We believe, that the limited tests we performed show some vulnerabilities associated with the NCIC and III name checks even though CA and the FBI have already explored and put in place some measures to increase the reliability of the name checks.

Recommendation 8: We recommend that Consular Affairs work with the Federal Bureau of Investigation to examine the effectiveness of the National Crime Information Center Interstate Identification Index for determining whether visa applicants have a criminal history and report the results back to the Congress in accordance with the reporting requirements mandated by the law.

CA stated in its management response that it will meet with the FBI to discuss the reliability of the name checks. This information will be used to prepare a joint report on the effectiveness of the name checks for identifying criminal records of the IV applicants that by law must be presented to the Congress by December 31, 1996. The FBI stated in its comments that 110,000 name inquiries take place on a typical day and that it is not aware of any instances where a record on file was not provided in response to an inquiry containing the same name and date of birth.

Fingerprint Checks

Fingerprint checks by the FBI are required as part of a pilot project that requires the 10 highest immigrant visa issuing countries to perform fingerprint checks. The program, which started in March 1995, is mandated by the Congress to continue until October 1, 1997. Visa applicants from the countries involved in the pilot project are charged a fingerprinting fee of $25. Of this fee $18 is paid to the FBI for their expenses, and the remaining $7 is retained by the Department. With few exceptions, applicants are asked to come to the post where their visa would ultimately be issued in order to have their prints taken prior to the date of their immigrant visa interview. Fingerprints are submitted by the posts directly to the FBI; however, the FBI mails the results of the fingerprint checks to the NVC, which then mails them to the visa issuing post. On average, the results are being received by the posts within 8 to 10 weeks. However, on some occasions it has taken as many as 14 weeks for the posts to receive the results of the fingerprint checks.

Applicants are notified of the fingerprint requirement by the NVC through a notice that explains that all immigrant visa applicants over the age of 16, applying within specific countries, must have their fingerprints cleared in the United States before a visa interview can take place. Applicants are also provided with the days of the week and the times that are available for having fingerprints taken. The NVC prepares the fingerprint cards with the applicant's name, date of birth, sex, and other identifying information, and it includes a barcode on the cards for ease of identification. Responsibilities at post include taking the fingerprints, updating IVACS with the status of the checks, collecting the fee, and mailing the cards to the FBI. Two of the posts that we visited during the field work reported that, in addition to the responsibilities mentioned above, they have had to spend a lot of time answering the many questions and concerns the applicants have regarding the fingerprint checks. We were told that most of the complaints come from the immediate relatives of U.S.

citizens, who have trouble understanding why they have to wait so long before being allowed to travel to the United States.

Statistics taken by CA and the posts reveal that of the 76,000 fingerprint checks processed, only 853 were identified with criminal records. Of the 853 criminal records found by the fingerprint checks, 846 were duplicates of the III name check hits. According to CA's statistics, not one applicant has been denied a visa based solely on the results of the fingerprint checks.

Because of the amount of processing time involved with the process, some of the IV applicants required to submit fingerprints may be adversely affected either because of their age, or time limits and visa availability imposed by the DV program. Applicants for IVs who are 21 years of age and older do not qualify as children; instead, they are placed in the lower preference category of sons and daughters. In these cases the applicant loses his or her preferential position for an IV, and a visa may no longer be available for the applicant. In another respect, applicants applying under the DV program, who must receive their visas before the end of the program may lose their eligibility to receive a visa.

> Recommendation 9: We recommend that Consular Affairs provide the Congress with statistics verifying the lack of results from the fingerprint checks and seek relief from the fingerprint check requirements prior to the expiration of the mandate in 1997.

CA intends to report to Congress by December 31, 1996, on the lack of useful results from the routine fingerprinting for IV applicants. We would suggest that CA also ask the Congress for relief from the fingerprint check requirements. In its comments to this report, the FBI stated that fingerprint checks are the only positive means of determining whether an individual has an FBI criminal history record. However, because of the lengthy processing time involved with the finger print checks and the duplication of the fingerprint results with the name checks, we continue to recommend that CA seek relief from the fingerprint mandate.

E. ADJUSTMENT OF STATUS

The INS may be granting legal resident status to the applicants who apply for an adjustment of status, without obtaining information on the applicant's arrest records outside of the United States. INS must comply with the INA in the same way the Department does, meaning that it too must determine whether aliens have criminal or security-related ineligibilities. INS checks the alien's fingerprints and name through the FBI systems to determine if criminal and arrest records exist in the United States. To obtain information on the aliens' arrest record outside of the United States, INS officials told us they rely on posts to provide that information when a request is sent to post through the use of the G-325A (INS biographic information form). Our report titled *Review of the Nonimmigrant Visa-Issuing*

Process, Phase II, dated January 1995, identified a number of concerns we had regarding the use of the G-325A when processing NIVs.

INS Criminal History Checks

The INS performs fingerprint and name checks of the applicants to determine if the applicants have criminal histories in the United States. However, in February 1994 a Department of Justice Office of Inspector General audit of the INS fingerprinting procedures found that examiners were approving adjustment of status applications before the results of fingerprint checks had been returned, and that controls were inadequate to ensure that the fingerprints submitted were indeed those of applicants. Therefore, it is likely that the INS was not be able to determine if a criminal history existed in the United States. For checks of criminal histories outside of the United States, the INS relies on the posts in the countries where the applicants have resided to provide any derogatory information that might be on file. Information from police records or applicant arrest records is not normally available in files at posts, particularly if the applicant has never submitted a visa application. However, INS operating instructions do not require police records to be submitted for adjusting the status of applicants. Without this information the INS has no way of ensuring that applicants are eligible for adjusting their status under criminal and security ineligibilities.

We stated in our report titled *Review of the Nonimmigrant Visa-Issuing Process Phase II* (5-CI-004, January 1995) that the INS was relying on applicants to identify countries where they had resided prior to entering the United States and was not requiring its regional and district offices to check the applicant's passport for that information. Posts were receiving some G-325A's (the INS' biographic information form) long after the 60-day window for responding. Posts had limited and outdated instructions on the type of derogatory information INS needed, and the INS had not defined what constitutes an adequate response to a G-325A inquiry. The report recommended CA and INS consultations to clarify G-325A processing procedures and provide information to posts on how to effectively process that document. CA told posts in a November 1994 cable to check their files and promptly inform INS of any potential ineligibilities that they uncover.

While a review of files at posts may be sufficient in some cases, we believe that the INS procedures for determining criminal and security related ineligibilities should closely parallel those in use at posts. That is, where records are reliable, CA should apprise INS so that it can require its applicants to obtain such records.

Department of State Criminal History Checks

Consular officers rely on data provided by applicants, to determine ineligibilities under the criminal and security related grounds of the INA. The FAM states that adult IV applicants are required to provide police certificates showing their arrest records and the

disposition of each case for each locality where they have resided for at least 6 months since the age of 16. The IV applicant is also to identify any political, professional, or social organizations affiliated with communist, totalitarian, terrorist, or Nazi organizations for which they have been a member or affiliated since the age of 16. CA has waived the requirement for police certificates for countries where the certificate is deemed either unavailable or unreliable due to high fraud or other factors. Currently, the requirement has been waived for more than 50 countries, including Afghanistan, Iran, Iraq, Pakistan, and Mexico.

The OIG raises this concern regarding the submission of police records because changes in the law, which allows more aliens to adjust their status with the INS than was previously allowed, will mean that a considerable amount of the processing that used to take place with the Department overseas, will now take place with the INS. The shift in the workload would mean that consular officers, who are generally more familiar than INS officers with the language, documents, and other nuances of a country's environment, will no longer process cases in the country of the applicant's nationality. Instead, INS officers will evaluate the documents submitted and determine applicants' eligibility.

> Recommendation 10: We recommend that Consular Affairs coordinate with the Immigration and Naturalization Service (INS) to ensure that information regarding the criminal history on the adjustment of status applicants is made available to the INS.

In its response CA stated that it has continued to assist the INS with the collection of information on the adjustment of status applicants by encouraging posts to respond to the G-325A requests in a timely manner. As for the local police records, CA pointed out that, while the posts are not in a position to request these records on behalf of the INS, posts can provide the INS with instructions on how to obtain these records so that the INS can then provide the instructions to adjustment of status applicants. Because of this response the wording of the recommendation has been changed to reflect the fact that posts are not in a position to collect the local police records for the INS. INS concurred with the original recommendation and said it was willing to coordinate with CA to make improvements in obtaining criminal history information overseas.

F. INCONSISTENT APPLICATION OF PETITION ACCEPTANCE

The Department and INS have different interpretations of the regulation concerning the acceptance of immediate relative petitions from persons who are not resident in the consular district. At two of the posts we visited where INS had district offices, INS officials, and consular officers, expressed concern over the inconsistent treatment of petitioners filing relative petitions abroad.

The primary cause of the inconsistent treatment is the guidance found in section 204.1 (a)(3)(iii) of the Code of Federal Regulation, which states that only "in emergent or

humanitarian cases as well as those in the national interest, the U.S. consular officers may use discretion in accepting a From I-130 filed by a petitioner who does not reside within the consulate's jurisdiction." The FAM reaffirms this statement. The INS interprets the above to mean that out-of-district relative petitions should only be accepted in emergency situations. Therefore, absent an emergency situation, a petition submitted by a U.S. citizen or a legal permanent resident, who was present but not a resident in a consular district, would not be accepted in a country with an INS overseas office. However, in a country without an INS overseas office, the petition would be accepted because, as stated in STATE 113331, the State Department "interprets humanitarian or emergent circumstances to include cases in which a U.S. citizen is present in the consular district and petitioning for his or her spouse of IR-1 or IR-2 status." Thus, there exists a philosophical difference between State and INS over acceptance of out-of-district non-resident petitions.

The FAM states that INS has authorized its officers at certain posts abroad to approve visa petitions for immediate relative and family-sponsored preference status when the petitioner is a resident of that country. Petitioners who are not residents must file petitions with the INS office that has jurisdiction over their place of residence.

As a result, posts without INS district offices are accepting out-of-district immediate relative petitions while posts with INS district offices are refusing these petitions because INS will not process such petitions. Posts without INS district offices have the authority to approve clearly approvable petitions while posts with INS district offices must submit the petitions to the district office for approval. For example, a U.S. citizen or legal permanent resident who submits a petition for their spouse in Phnom Phen where there is no INS district office would be able to have their petition processed and an immigrant visa issued under emergency or humanitarian grounds if the spouse was not a resident of Cambodia. The same petitioner, however, would be turned down in Bangkok where there is an INS presence.

> Recommendation 11: We recommend that Consular Affairs, in coordination with the Immigration and Naturalization Service, agree to an interpretation of 8 Code of Federal Regulation, section 204.1(a)(3)(iii), and implement the interpretation in a consistent manner.

CA's response to this recommendation stated that negotiations have already been initiated with the INS to arrive at a consistent interpretation of the acceptance of petitions regulations. Specifically, CA asked INS to adopt CA/VO's practice of accepting petitions from non-resident American citizens who were filing for spouses and/or children. CA stated that it will follow up with a letter to the INS' Office of International Affairs on this matter. The INS stated that it is willing to discuss this matter with CA and to agree on a common interpretation of the regulation.

G. EMPLOYMENT BASED IMMIGRANT VISAS

Aliens may apply for either a family based, an employment based, or a DV. To be eligible for an employment based IV, a U.S. employer must file a labor certification, offer a position to the intending immigrant, and file a petition with the INS on the applicant's behalf. In other cases, neither a labor certification nor a job offer is necessary, and the applicant may file a petition with the INS on their own behalf. In any event, there are five preference categories for the employment based IVs, each having its own requirements for eligibility. However, in the process of approving an employment based visa, no agency is required to verify the existence of the U.S. company that has filed the labor certification and petition for an immigrant worker.

Labor Certifications

Before a petition is approved by the INS and before the consular officer adjudicates the IV case, DOL must certify that no qualified workers are available in the United States and that the salary and working conditions being offered will not adversely affect U.S. workers in that field.

The process of labor certification involves state and Federal agencies and can last from months to several years. First, the employing organization must complete a request for labor certification and file it with the state employment security agency. The state agency lists the position for at least 45 days and sends any referrals to the employing organization for consideration. The organization must also advertise the position in newspapers, journals, and other media. This is called the recruiting period. If a worker is not selected during this process, the organization must explain to the employment agency why the candidates referred to it were not qualified. After this, the application is forwarded to one of the 10 regional Department of Labor offices for review. A certifying officer reviews the documents and decides whether a reasonable attempt was made to find a qualified worker in the United States. If approved, the certification is sent to INS to begin the IV process. If denied, the certifying officer issues a notice of findings explaining why the position is not certified.

After the position is certified, an I-140 Petition for Immigrant Worker must be filed with the INS. It is INS' responsibility to determine the eligibility of an alien for preference immigrant status. Basically, INS ensures that the applicant meets the minimum requirements for the position and also for the preference category. In addition, INS evaluates the petitioning organization's financial ability to pay for the employee. In some cases, INS conducts a field investigation to determine if the job offer is bona fide. Otherwise INS' reviews are based entirely on documents. During the IV interview, it is the consular officer's responsibility, "to determine that the applicant has the professional or occupational qualifications on which certification is based."

Employment based visas present interesting challenges to consular officers and sometimes require expending disproportionate resources to process. The consular officer usually designs tests of the applicant's skills, no matter what the position is, to determine the applicant's ability to perform the work. For example, during our fieldwork at one post, an alien was being petitioned to work as a carpet repair man. The consular officer brought a piece of carpet into the office for the applicant to repair to test his skills. In another case, the consular officer made an appointment with a local butcher to test a butcher's skills. In some cases, consular officers are puzzled at how some positions are certified by the Department of Labor. At one post, the consular officer said that a labor certification had been approved for a pizza delivery driver.

DOL's Office of Inspector General is currently conducting an audit of the labor certification process. The office selected 600 labor certifications for immigrant workers and visited each employing organization to determine if the organization actually employed the alien, if it paid the wage it originally offered, and if working conditions were suitable. The audit scope also includes questions about why an organization is willing to wait substantial periods of time (sometimes as long as several years) to hire an alien for a position. Finally, the office is addressing the processing time--how long it takes to bring an alien to the United States for an employment position from the time the labor certification is filed with the state employment security agency to the time the visa is issued.

During the field work, the DOL/OIG found fraudulent certifications from companies that were no longer in business, and other certifications from companies that were not yet in operation had petitioned for employees to fill positions that would exist if the company were to start conducting business. In another situation a petition was submitted to obtain an IV for a barber by someone who was only renting a chair in a barber shop. Similarly, a fast food restaurant was found to have submitted certifications for 50 workers to come to the United States.

Despite the many government agencies involved in the process, a gap remains. Neither DOL, nor INS, nor the consular officer systematically investigate the employing organization to determine if it really exists. INS does investigate in some cases, but not all. CA/FPP is currently working with the Department of Labor to identify ways to fill the gap through interagency cooperation and has established an informal communication network between the INS and Department of Labor. CA/FPP should continue to work aggressively to ensure that employing agencies are investigated. We encourage CA/FPP to create working groups with INS and Labor and the group should work to establish clear objectives and milestones for achieving its objectives.

> Recommendation 12: We recommend that Consular Affairs' Fraud Prevention Programs Office aggressively work with the Immigration and Naturalization Service and the Department of Labor to identify solutions to fill the gap in the employment

based immigrant visa process, to ensure that only valid organizations are having positions certified and petitions approved.

CA stated in its response that CA/FPP and CA/VO have continued efforts to work with the INS and DOL on various aspects of the employment based IVs. CA stated that it has assisted posts directly by contacting the petitioners or requesting that the posts contact the prospective employers and labor recruiters in the United States. CA also pointed out that it is working with IM to provide INS and consular officers with secure e-mail communications to quickly resolve cases. The INS stated that it is willing to coordinate with CA to reduce the number of mala fide employment based petitions in the approval process.

H. REPEAT VISITS

During our field work we found that up to 90 percent of the IV applicants come to the consulates and embassies unprepared for their IV appointments. According to the 9 FAM, officers are required to interview these applicants even when it is determined by FSN prescreeners that the applicants are not in a position to be approved for an IV, so as not to decrease productivity or inconvenience the applicants.

At the posts we visited, from 15 to 90 percent of applicants did not bring with them one or more of the required documents needed for the initial IV interview. In accordance with the regulations, FSNs were prescreening these applicants and informing consular officers that these applicants lacked the required documents, only to have the officers proceed with the interviews and again find the applicants ineligible for an IV because they lacked the required documents. The applicants are required to return to the consulate or embassy at a later date with the missing documentation. The redundancy of the repeat visits is an inefficient use of consular staffing at a time when these resources are declining.

The NVC advises applicants, through correspondence, of the application instructions and of the need to get ready for the visa interview by obtaining a valid passport, birth certificate, police certificate, two color photographs, and evidence of support. The packet also specifies bringing a marriage certificate, divorce decree or death certificate, court and prison records, and military records to the visa interview if these documents are relevant to the application. In responding to the request for this information, applicants sign a checklist acknowledging they have the documents on hand and are prepared to present them. Applicants are sent an appointment letter soon after the checklist is received at posts. Along with providing the appointment date, the other information instructs the applicants to undergo a medical examination and warns that the visa will be refused if the applicant fails to bring in all of the required documents.

On the day of the appointment, an FSN who first receives the applicants sifts through the documents, makes notes of missing information on a checklist, and gives it to the officers with the file. Consular officers review that information and interview the applicants even if they lack the required documents. Applicants have 1 year from the date of the refusal to overcome the refusal without having to pay a new application fee. At most of the posts the consular officers observed applicants returning a second and third time regardless of whether they had the proper documents.

Consular personnel told us that applicants show up at post without the required documents because the instructions are poorly drafted or because some of the applicants may not read or be able to read the instructions. Regulations encourage officers to interview the applicants, for example, 9 FAM (section 42.62 PN3) states that consular officers should conduct interviews even if the applicants are missing documents because of the inconvenience and expense it may cause the applicants. The FAM further states that the number of daily appointments is set up to maximize the use of available space and personnel, and that a cancelled interview results in a gap in that day's productivity without any gain since the interview must be rescheduled. We were also told that in adjudicating cases, even when required documents are missing, officers can ascertain before a visa is issued whether other problems have to be resolved or additional data are needed.

We agree that posts should maximize use of space and personnel. However, we also believe that it is not efficient or economical for consular officers to routinely adjudicate cases for large numbers of applicants who fail to bring the required documents to posts at a time when consular resources are decreasing. The additional cost of continually processing such applicants should be determined and passed on to the appropriate applicants. More than 131,000 (or 70 percent) of the 188,855 IV findings of ineligibilities in FY 1994 were later overcome by evidence brought in by applicants that the ineligibility did not apply, or by some other relief as provided by the INA.

> Recommendation 13: We recommend that Consular Affairs take the steps needed to (1) collect a fee from applicants who repeatedly show up at posts without the documents required for the initial interview with consular officers and (2) obtain the necessary authority from the Congress to retain that fee to cover their extra processing costs.

In its response to this recommendation CA stated that a contractor is currently performing a cost study, the results of which will provide CA with the overseas IV issuance cost. CA will pursue a full cost recovery program for the services it provides once it has defined the cost. CA also stated that it does not know how receptive the Congress will be to it retaining the IV fees. FMP's response concurred with CA's.

I. FEE COLLECTION

Cashiers are performing two cash collection transactions for each of the IV applicants. In the process, the IV applicants are required to make two trips to the cashiers: once to pay the application fee and later to pay the issuance fee. Precious time is being used in this two step process because the regulations state that the fee should be divided up into two parts and collected on two separate occasions. We believe that the consolidation of the two parts of the fee into one fee, collected one time, would be a more efficient means of collecting the IV fees.

Consular cashiers collect the IV fees from the applicants on two separate occasions during the IV process. The cashiers initially collect the application fee of $170 for each of the applicants, and they later collect the issuance fee of $30 for each of the applicants. Therefore, cashiers must enter two transactions into the Automated Cash Register System (ACRS), which is used at most posts to collect consular fees, and generate two receipts for the transactions mentioned above. The applicable guidance, 9 FAM 42.71, states that the application fee should be collected prior to the interview and the issuance fee should be collected after the interview and prior to issuing the visa.

Two of the posts we visited collected both parts of the IV fee at one time because of the high volume of applicants that they processed each day. In FY 1994, one of the posts processed more than 115,000 applications and issued more than 100,000 visas. The other post processed 31,000 applications and issued more than 26,000 visas. This proved to be an efficient way for them to move the applicants through the payment process. In cases where it was determined that the applicant had all of the documents and would likely be approved for a visa, the whole $200 fee was collected. For those applicants for whom there was some doubt about the issuance, $170 was collected. On a rare occasion, it was required for an applicant to be refunded $30. We believe that this is an efficient manner of collecting the IV fees and believe that the application fee and the issuance fee should be consolidated into one IV fee.

The consolidation of the IV fee may cause more trouble for high refusal posts who would have to issue several refunds each day. We asked officers at the posts we visited what they thought of collecting the IV fee all at one time. The only concerns that were expressed were that the applicants may feel that the issuance of a visa was imminent if they were asked to pay the full $200 at one time. If CA believes that this will be the case, then the name of the fee could be changed from the application and issuance fees to the IV fee. Consolidated in this manner, there would not be a separation in the fees collected, nor would there be a need for the cashier to perform two transactions for each applicant.

> Recommendation 14: We recommend that Consular Affairs (1) require posts to collect all immigrant visa fees at once in order to maximize the use of limited consular resources and (2) seek a change in the Schedule of Fees to combine the two fees into one single fee.

CA stated that it cannot study the feasibility of this recommendation until it has the results of the cost study. In addition, CA explained that a pilot program is currently underway in London to test whether allowing posts to collect fees via credit cards will save time. CA added that there are other options such as allowing local banks to process IV fees as they do now for the MRV fees or expanding the one-time collection method to all IV issuing posts. FMP agreed with the recommendation, but further suggested that the visa fee should be collected at the time of the visa issuance to expedite the process.

J. DUPLICATION OF EFFORTS

Currently, the INS and NVC are collecting and manually entering the same 20 data elements from the petition into their respective automated systems. In addition, each agency is assigning their cases several different numbers. These include an INS receipt number, an NVC system assigned number, an IVACS number, and a visa number (which serves as the alien's registration number). While we do not have the specific amounts, savings could accrue if the petition information was entered by the INS and electronically transmitted to the NVC; this would eliminate the need for the data entry unit at the NVC to enter the petition information into IVIS, and it would also allow for the elimination of prescreening the petitions for the data entry unit by the prescreening unit. Additional savings could also come from a reduced number of quality control steps that now take place within each unit at the NVC. CA/EX estimates that the data share initiative will save approximately $1 million annually in contract costs. The initiative will further allow for the elimination of positions overseas.

In November 1993, the INS and CA formed a task force on cooperation "to make policy recommendations on collaborating processes that involve both agencies, namely the United States' visa issuing and entry procedures." The task force focused primarily on the automation, transmission, and collection of data in the IV process, the task force made numerous recommendations. It proposed data entry on aliens only once at the INS and transmission of that data electronically to the NVC for further processing. This would eliminate the need for significant data entry at the NVC's data-entry unit and strengthen the role of its quality control unit. The succeeding agency and posts would update the existing information. A second proposal was to assign only one number to the alien's case and to carry that number through the entire INS and State process, thus facilitating the staff's ability to effectively address and answer customer questions and ease the processing of IVs. After the visa was issued, that data would be transmitted electronically from posts to U.S. ports of entry.

On December 14, 1995, a pilot project started in which data are electronically transmitted from four INS RSCs to the NVC, three overseas posts (Frankfurt, Georgetown, and Ciudad Juarez), the INS ports of entry, and the INS card facility where green cards are eventually processed. However, no agreement has been reached on the milestones for

implementing this proposal worldwide. We fully support CA's and INS' efforts in this regard and would like to ensure that the project is expanded worldwide in a timely manner.

> Recommendation 15: We recommend that Consular Affairs, in coordination with the Immigration and Naturalization Service, establish milestones for worldwide implementation of the proposal to enter the immigrant visa data only once at the Immigration and Naturalization Service, transmit that data electronically to the National Visa Center, and transmit data on immigrant visa issuances electronically to U.S. ports of entry.

CA stated that the Data Share Steering Committee of the IBIS group has not completed its long-term analysis of the IV process. Further testing will be performed as CSD proceeds with the installation of the modernized IV system. CA added that early reports of the data sharing pilot project are very positive. The INS reiterated CA's comments on this recommendation.

V. CONSOLIDATED LIST OF RECOMMENDATIONS

Recommendation 1: We recommend that Consular Affairs identify the skills, tools, and antifraud resources required by the immigration visa officers and the Foreign Service Nationals at posts where the immigrant visa processing is being considered for consolidation and provide the results to the Bureau of Personnel.

Recommendation 2: We recommend that the Bureau of Personnel take the appropriate steps within the Department to obtain the requisite resources, assigning the proper mix of officers and Foreign Service Nationals who collectively have the right language skills to adjudicate applications.

Recommendation 3: We recommend that Consular Affairs direct posts to consolidate medical examinations in the city of visa issuance or city with a consular presence and limit the number of panel physicians and laboratories so that a high percentage, if not all, of the examinations are performed at a limited number of facilities.

Recommendation 4: We recommend that Consular Affairs, in coordination with the Office of Information Management, continue to move forward with the modernization of Immigrant Visa Applicant Control System and (1) establish milestones for placing it at all immigrant visa (IV) processing posts to insure efficiency of the IV process and (2) take steps to insure that the milestones are achieved, **taking into consideration available** funding.

Recommendation 5: We recommend that Consular Affairs, in conjunction with the Office of Information Management, the National Foreign Affairs Training Center, and the Bureau of Personnel, determine the total training and information needs of Information Management Officers in maintaining immigrant visa automated systems and establish applicable training for the Information Management Officers overseas.

Recommendation 6: We recommend that Consular Affairs apprise posts of the requirements for preparing immigrant visas, stressing the importance of a standard immigrant visa document, to facilitate the Immigration and Naturalization Service identification of counterfeit and fraudulent immigrant visas at U.S. ports of entry.

Recommendation 7: We recommend that Consular Affairs take steps to (1) develop a machine readable immigrant visa and (2) fund that project with fees collected through the Machine Readable Visa Program.

Recommendation 8: We recommend that Consular Affairs work with the Federal Bureau of Investigation to examine the effectiveness of the National Crime Information Center Interstate Identification Index for determining whether visa applicants have a criminal history and report

the results back to the Congress in accordance with the reporting requirements mandated by the law.

Recommendation 9: We recommend that Consular Affairs provide the Congress with statistics verifying the lack of results from the fingerprint checks and seek relief from the fingerprint check requirements prior to the expiration of the mandate in 1997.

Recommendation 10: We recommend that Consular Affairs coordinate with the Immigration and Naturalization Service (INS) to ensure that information regarding the collection of criminal history information on the adjustment of status applicants is transmitted to applicable INS processing centers.

Recommendation 11: We recommend that Consular Affairs, in coordination with the Immigration and Naturalization Service, agree to an interpretation of 8 Code of Federal Regulation, section 204.1(a)(3)(iii), and implement the interpretation in a consistent manner.

Recommendation 12: We recommend that Consular Affairs' Fraud Prevention Programs Office aggressively work with the Immigration and Naturalization Service and the Department of Labor to identify solutions to fill the gap in the employment based immigrant visa process, to ensure that only valid organizations are having positions certified and petitions approved.

Recommendation 13: We recommend that Consular Affairs take the steps needed to (1) collect a fee from applicants who repeatedly show up at posts without the documents required for the initial interview with consular officers and (2) obtain the necessary authority from the Congress to retain that fee to cover their extra processing costs.

Recommendation 14: We recommend that Consular Affairs (1) require posts to collect all immigrant visa fees at once in order to maximize the use of limited resources and (2) seek a change in the Schedule of Fees to combine the two fees into one single fee.

Recommendation 15: We recommend that Consular Affairs, in coordination with the Immigration and Naturalization Service, (1) establish milestones for worldwide implementation of the proposal to enter the immigrant visa data only once at the Immigration and Naturalization Service, transmit that data electronically to the National Visa Center, and transmit data on immigrant visa issuances electronically to U.S. ports of entry.

RECOMMENDATION 1

Recommendation: We recommend that Consular Affairs identify the skills, tools, and antifraud resources required by the immigration visa officers and the Foreign Service Nationals at posts where immigrant visa processing has been consolidated and provide the results to the Bureau of Personnel.

CA comment: The approach several years ago (and still advocated by OIG in their inspection report on El Salvador) was to promote the consolidation of immigrant visa processing. CA agrees that we have probably wrung what economies of scale we are going to obtain from this process and it is unlikely that any further consolidation will take place. Most consolidations took place within a given country such as Mexico where all immigrant visa processing units countrywide were consolidated in Ciudad Juarez. A similar process took place in Canada. Consolidation operations which involved cross border processing took place in Moscow (which handles all immigrant visa applications for the 10 former Soviet republics), Helsinki (which processes visas for the Baltic countries), and Warsaw, which processes applicants from Belarus and Ukraine. These operations are closely monitored by the Visa office. Many FSNs in Warsaw speak Russian and there is usually a Russian speaking officer at this post as well. Russian is still a common language for the inhabitants of the former Soviet republics now handled by Moscow. CA does not believe it worthwhile at this time to expend already limited resources to conduct an exhaustive study as the recommendation calls for in view of the above.

RECOMMENDATION 2

RECOMMENDATION: We recommend that the Bureau of Personnel take the appropriate steps within the Department to obtain the requisite resources, assigning the proper mix of officers and Foreign Service Nationals who collectively have the right language skills to adjudicate applications.

COMMENT: This recommendation, one CA would heartily endorse, was correctly assigned to PER for action. We would like to comment, however, that in the face of continuing levels of reduced intake of junior officers, the timely assignment of properly qualified officers to all consular positions is likely to be a serious problem for some time to come.

RECOMMENDATION 3

RECOMMENDATION 3: We recommend that Consular Affairs direct posts to consolidate medical examinations in the city of visa issuance and limit the number of panel physicians and laboratories so that a high percentage, if not all, of the examinations are performed at a limited number of facilities.

COMMENT: CA has already instructed posts to limit the number of panel physicians wherever possible. See (FAM 42.66 N4.2. CA's policy is to consolidate medical examinations in those cities where consular officers are assigned (even if it is a post that does not issue immigrant visas), so consular personnel can supervise panel physicians operations. On the other hand, limiting panel physicians only to cities where visas are issued--as is suggested in the OIG report--would create a hardship for many visa applicants who would have to wait longer in a city far from home for the exam to take place, the lab results to come back (this can take a week to ten days in some countries), and then for the visa to be issued.

RECOMMENDATION 4:

RECOMMENDATION: We recommend that Consular Affairs, in coordination with the Office of Information Management, continue to move forward with the modernization of Immigrant Visa Application Control System and (1) establish milestones for placing it at all immigrant visa (IV) processing posts to insure efficiency of the IV process and (2) take steps to insure that the milestones are achieved, contingent upon adequate funding.

COMMENT: The development team has recently finished reviewing the proposed Modernized Immigrant Visa Accountability and Control System (IVACS) program. The team is currently making final adjustments prior to the pilot testing of the software. The pilot test is scheduled to begin in October 1996 in Vancouver as part of the modernized consular system installation at that post. Following several months of testing, the program will be prepared for worldwide release in the summer of 1997.

The modernized IVACS program is an ALMA program and its release to posts is dependent on IM's ability to upgrade posts to the ALMA platform. Once an IV post is certified for ALMA, CA/EX/CSD will quickly move to install the modernized version of IVACS. Modernized IVACS may be used as a stand alone system at Non-ALMA posts but this would preclude the use of many of the modernized features.

Following the pilot testing of the new IVACS software, CA/EX/CSD will prepare an installation schedule for the new software in conjunction with IM's installation schedule for the ALMA configuration. This must include planning for budget constraints.

RECOMMENDATION 5:

RECOMMENDATION: We recommend that Consular Affairs, in conjunction with the Office of Information Management, the National Foreign Affairs Training Center, and the Bureau of Personnel, determine the total training and information needs of Information Management Officers in maintaining immigrant visa automated systems and establish applicable training for the Information Management Officers overseas.

COMMENT: CA/EX/CSD will work with the National Foreign Affairs Training Center, Information Management, and Consular Training Divisions, to improve training for Consular Officers and IM officers on automated IV systems. IM and CA personnel are not always able to take existing training due to the limits of the assignments process. PER, CA/EX, A/IM, and the geographic bureaus must work together to ensure that assigned officers receive available training.

CA/EX/CSD's contractor for overseas installations and training, the Orkand Corp., has developed training modules for Consular Officers and Information Management personnel at post. When the contractor visits a post, the training will be offered on all post consular automated systems, including IV systems.

We note that IVACS is CA's oldest and most stable automated system. The CA support desk receives on average less than two calls per week concerning IVACS; most relating to routine maintenance questions. We believe the OIG finding that "none" of the IMOs or consular officers received adequate training on IV systems is not supported by the current performance record of IVACS and in fact, may represent frustration in the field with more troublesome non-IV systems.

RECOMMENDATION 6:

RECOMMENDATION: We recommend that Consular Affairs apprise posts of the requirements for preparing immigrant visas, stressing the importance of a standard immigrant visa document, to facilitate the Immigration and Naturalization Service identification of counterfeit and fraudulent immigrant visas at U.S. ports of entry.

COMMENT: All immigrant visa issuing posts began using the new version of the immigrant visa form (OF-155) in May 1996. The new version contains a variety of enhanced security features, including microprinted color breaks, fluorescent ink, and intentional line breaks. CA/VO and CA/FPP have both had extensive discussions with the Immigration and Naturalization Service regarding the new version, so that INS inspectors could be familiar with the implementation plans and the form's security features. No major problems were encountered during the new OF-155's implementation.

RECOMMENDATION 7:

RECOMMENDATION: We recommend that Consular Affairs take steps to (1) fund the development of the machine readable immigrant visa with fees collected through the Machine Readable Visa Program and (2) develop and implement a machine readable immigrant visa program.

COMMENT: Efforts in CSD are already well underway as part of the overall modernization plan for all consular automated systems to create a machine readable immigrant visa which will run on a modernized computer system, fully networked and independent of costly, inefficient mainframe systems. CA/EX and the MITRETEK corporation, through its current COST OF SERVICE survey project, is in the process of determining the cost of issuing an immigrant visa overseas. As soon as MITRETEK has issued its final report (due at the end of the summer), CA will pursue the steps needed to undertake something approaching full cost recovery for the service provided. We note also, that this recommendation appears to be somewhat duplicative of recommendation 4.

RECOMMENDATION 8:

RECOMMENDATION: We recommend that Consular Affairs work with the Federal Bureau of Investigations to examine the effectiveness of the National Crime Information Center Interstate Identification Index for determining whether visa applicants have a criminal history and report the results back to Congress in accordance with the reporting requirements mandated by law.

COMMENT: The law granting CA access to NCIC also requires CA and the FBI to report jointly to Congress on the program's effectiveness in identifying immigrant visa applicants with U.S. criminal records. This report is due no later than December 31, 1996.

In preparing the report, CA will be meting with the FBI to undertake the same assessment of the NCIC-III as recommended in the OIG report. CA intends to submit the report before the December deadline.

RECOMMENDATION 9

RECOMMENDATION: We recommend that Consular Affairs provide the Congress with statistics verifying the lack of results from the fingerprint checks and seek relief from the fingerprint check requirements prior to the expiration of the mandate in 1997.

COMMENT: The law mandating the fingerprint pilot program requires CA and the FBI to report jointly to Congress on the program's effectiveness. This report is due no later than December 31, 1996. As part of the report, CA intends to cite statistics on the lack of useful results from routine fingerprinting. CA intends to submit the report before the December deadline.

RECOMMENDATION 10:

RECOMMENDATION: We recommend that Consular Affairs coordinate with the Immigration and Naturalization Service (INS) to ensure that criminal history information on the adjustment of status applicants is transmitted to applicable INS processing centers.

COMMENT: The Visa Office shares with INS the goal of shared access to each other's namecheck databases, as well as eventual access to other USG criminal history databases. The Interagency Border Information System (IBIS) is an example of this initiative.

In this recommendation, the OIG refers to two other possible sources of information on an alien's criminal history: post files and local police records.

The standard mechanism for the INS to request information from post on an adjustment of status applicant is the G-325A. As the OIG noted, this is an imperfect tool and INS recently was considering eliminating the G-325A. However, as long as the G-325A continues to be in use, VO policy is to encourage posts to respond to the requests in a timely and detailed fashion.

With respect to the second source of criminal information, local police records, the OIG notes that these are unavailable in many countries and are consequently waived for immigrant visa purposes. However, for the remaining countries where local police records are obtainable, VO can provide INS with a list of those countries (included in Appendix C of Volume 9 of the Foreign Affairs Manual) and instructions on how adjustment of status applicants can apply for those clearances. Posts themselves are not in a position to request these records on behalf of INS or the applicants.

RECOMMENDATION 11:

RECOMMENDATION: We recommend that Consular Affairs, in coordination with the Immigration and Naturalization Service, agree to an interpretation of 8 Code of Federal Regulation, section 204.1(a)(3)(iii), and implement the interpretation in a consistent manner.

COMMENT: CA has already initiated negotiations with INS over a uniform interpretation of this regulation. At a liaison meeting in May, VO asked INS to adopt VO's more liberal practice of accepting petitions from non-resident American citizens who were filing for spouses and/or children. We will follow up with a letter to INS, Office of International Affairs.

RECOMMENDATION 12:

RECOMMENDATION: We recommend that Consular Affair's Fraud Prevention Programs Office work aggressively with the Immigration and Naturalization Service and the Department of Labor to identify solutions to fill the gap in the employment based immigrant visa process, to ensure that only valid organizations are having positions certified and petitions approved.

COMMENT: CA/FPP and VO meet regularly with DOL and INS on various aspects of the employment based immigrant visa and will continue to do so. We have assisted posts by directly contacting the petitioners when necessary or by encouraging posts to resolve problems by contacting prospective employers and labor recruiters in the United States. We are also working with IM to provide INS and consular officers with secure e-mail communications to quickly resolve cases.

RECOMMENDATION 13:

RECOMMENDATION: We recommend that Consular Affairs require posts to establish procedures that include sound internal controls to permit Foreign Service Nationals to turn away applicants who lack the required documents for the initial interview.

COMMENT: The Visa Office infers that OIG has made this recommendation in order to reduce the number of 221(g) refusals brought on by applicants' lack of proper documentation. However, because the authority for determining whether or not documents submitted by an applicant meet the requirements of the law is vested solely in the consular officer, and because of the level of officer supervision which would be required to implement this recommendation, VO strongly opposed it.

As noted in 9 FAM 42.61, a consular officer must accept an immigrant visa application a) if the alien is a resident of the consular district or is physically present and expects to remain therein for the period required for processing the case; or b) at the direction of the Department, regardless of the alien's residence. As noted in 9 FAM 42.62, every applicant for an immigrant visa must be interviewed personally by a consular officer who is responsible for determining whether the applicant is eligible to receive a visa.

We understand that the OIG contemplates that the FSN would turn away applicants only because they lack documents which are necessary for the consular officer's proper adjudication of the immigrant visa. However, the mere fact that an FSN turns away an applicant could be interpreted by many applicants and attorneys as a denial of an interview. Further, because the consular officer retains the sole discretion for determining which documents are acceptable and which documents could be waived, transferring this responsibility to an FSN appears to violate the requirements of the INA 222(b).

Explaining the nature and purpose of the FSN's actions would likely require more time and effort than simply interviewing the applicant and finding that person ineligible under INA 221(g). Indeed, 9 FAM 42.62 PN3 requires the consular officer to conduct the visa interview even if s/he knows that required

documentation is missing: "In addition to the inconvenience and expense caused to the alien (particularly an alien applying with family members), it is generally inefficient from the post's point of view if an application is not accepted and the applicant not interviewed on the appointment date. At a busy post, the number of daily interviews is set to maximize the use of space and personnel. A cancelled interview results in a gap in that day's productivity without gain, since the interview must be scheduled for another day. In addition, there is no guarantee the alien will be found eligible the second time around. Rescheduling results in administrative backlogs, which in turn result in lost time answering correspondence and responding to telephone inquiries.

VO also believes that giving an FSN authority over who does and does not qualify for an interview with a consular officer could widen opportunities for malfeasance. In order to prevent either the appearance or the fact of favoritism (or, even worse, solicitation of bribes), consular officers would need to closely supervise the activities of the FSNs.

In short, we believe that implementing this recommendation would actually increase the amount of time and work required of consular officers and would not result in any resource savings. However, VO will recommend that posts implement a streamlined approach for handling repeated 221(g) refusals that will reduce officer time in the process.

RECOMMENDATION 14:

RECOMMENDATION: We recommend that Consular Affairs take the steps needed to collect a fee from applicants who repeatedly show up at posts without the documents required for the initial interview with consular officers and (2) obtain the necessary authority from the Congress to retain that fee to cover their extra processing costs.

COMMENT: CA/EX and the MITRETEK corporation, through its current COST OF SERVICE survey project, is already identifying how much it costs to issue an immigrant visa overseas. As soon as MITRETEK has issued their final report (due at the end of the summer), CA will pursue the steps needed to undertake something approaching full cost recovery for the service provided. It is too soon to tell how receptive Congress will be to letting the Bureau retain more fees which currently go to the U.S. Treasury and are applied to deficit reduction.

RECOMMENDATION 15:

RECOMMENDATION: We recommend that Consular Affairs require posts with low refusal rates to collect all immigrant visa fees at once in order to maximize the use of limited resources.

COMMENT: As soon as the definitive results of the Cost of Service study for all consular fees are in, we can explore the feasibility of this proposal. Other options may be allowing local banks to collect consular fees as they do now for the MRV fees or expanding this one-time collection method to all IV issuing posts. A pilot program is currently underway in London to test whether allowing posts to collect fees via credit cards is time-saving measure.

RECOMMENDATION 16:

RECOMMENDATION: We recommend that Consular Affairs, in coordination with the Immigration and Naturalization Service (1) establish milestones for worldwide implementation of the proposal to enter the immigrant visa data only once at the Immigration and Naturalization Service, transmit that data electronically to the National Visa Center, and transmit data on immigrant visa issuances electronically to the U.S. ports of entry.

COMMENT: The Data Share Steering Committee of the IBIS group has produced a schedule for completion of its long-term analysis of the immigrant visa process. Until completion of that study, it would be premature to begin to project a schedule for implementation and fielding of the system. The current IV pilot is a "proof of concept" and relies on current WANG technology (VS main frame platform). Further pilot testing will be performed as CSD proceeds with the installation of the modernized IV system. The Border Crossing Card pilot now planned for laboratory testing - CY 96 and field testing sometime in CY 97 will also provide valuable testing for transfer of image technology.

The current IV Data Share pilot which is being pilot tested in Ciudad Juarez, transmits data on immigrant visa issuances electronically to U.S. ports of entry. Early reports of the program's progress are very positive. The Canada Project which is underway in Canada, involves a greater use of facilities at the National Visa Center to embody the two facets of the recommendation.

Recommendation 14: We recommend that Consular Affairs take the steps needed to (1) collect a fee from applicants who repeatedly show up at posts without the documents required for the initial interview with consular officers and (2) obtain the necessary authority from the Congress to retain that fee to cover their extra processing costs.

Management Response: The costs of service study currently being conducted by MITRETEK for CA will be used as justification for all consular fees and is addressing recommendations for potential additions to the fee schedule resulting from analysis of consular workloads and costs.

Draft Audit Report on Immigrant Visa Processing

Recommendation 15: We recommend that Consular Affairs require posts with low refusal rates to collect all immigrant visa fees at once in order to maximize the use of limited consular resources.

Management Response: We agree with the recommendation that Consular resources would be maximized if the IV application and IV issuances fees were collected simultaneously, however, the recommendation should require that the collection of both fees occur at the time of visa issuance and not at the time of application which would maximize Department-wide, not just Consular resources.

Both fees collected at the time of application result in some refunds issued. In the example provided in the audit report, Ciudad Juarez processed 115,000 applications and issued 100,000 visas. This required issuing 15,000 refunds. Those refunds are processed by the Class B Cashier office and are time-consuming and expensive to process. In some cases, additional personnel resources in the Class B Cashier office would be required in order to accommodate the processing of the refunds.

Collecting both fees at the time of issuance would eliminate the requirement for any refunds and minimize resources from both the consular and administrative sections.

We recommend that Consular Affairs seek change in the Schedule of Fees to combine the two fees into one single fee which would be collected at the time of visa issuance.